

109TH CONGRESS  
1ST SESSION

# S. 499

To amend the Consumer Credit Protection Act to ban abusive credit practices, enhance consumer disclosures, protect underage consumers, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 2, 2005

Mr. DODD introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To amend the Consumer Credit Protection Act to ban abusive credit practices, enhance consumer disclosures, protect underage consumers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 This Act may be cited as the “Credit Card Account-  
5 ability Responsibility and Disclosure Act of 2005” or the  
6 “Credit CARD Act of 2005”.

7 **SEC. 2. REGULATORY AUTHORITY.**

8 The Board of Governors of the Federal Reserve Sys-  
9 tem may issue such rules or publish such model forms as

1 it considers necessary to carry out this Act and the  
 2 amendments made by this Act.

## 3 **TITLE I—ABUSIVE PRACTICES**

### 4 **Subtitle A—Use of Default Clauses**

#### 5 **SEC. 111. PRIOR NOTICE OF RATE INCREASES REQUIRED.**

6 Section 127 of the Truth in Lending Act (15 U.S.C.  
 7 1637) is amended by adding at the end the following:

8 “(h) ADVANCE NOTICE OF INCREASE IN INTEREST  
 9 RATE REQUIRED.—

10 “(1) IN GENERAL.—In the case of any credit  
 11 card account under an open end consumer credit  
 12 plan, no increase in any annual percentage rate of  
 13 interest (other than an increase due to the expira-  
 14 tion of any introductory percentage rate of interest,  
 15 or due solely to a change in another rate of interest  
 16 to which such rate is indexed)—

17 “(A) may take effect before the beginning  
 18 of the billing cycle which begins not less than  
 19 15 days after the obligor receives notice of such  
 20 increase; or

21 “(B) may apply to any outstanding balance  
 22 of credit under such plan as of the date of the  
 23 notice of the increase required under paragraph  
 24 (1).

1           “(2) NOTICE OF RIGHT TO CANCEL.—The no-  
 2           tice referred to in paragraph (1) with respect to an  
 3           increase in any annual percentage rate of interest  
 4           shall be made in a clear and conspicuous manner  
 5           and shall contain a brief statement of the right of  
 6           the obligor to cancel the account before the effective  
 7           date of the increase.”.

8   **SEC. 112. FREEZE ON INTEREST RATE TERMS AND FEES ON**  
 9                           **CANCELED CARDS.**

10          Section 127 of the Truth in Lending Act (15 U.S.C.  
 11   1637), as amended by this Act, is amended by adding at  
 12   the end the following:

13          “(i) FREEZE ON INTEREST RATE TERMS AND FEES  
 14   ON CANCELED CARDS.—If an obligor referred to in sub-  
 15   section (h) closes or cancels a credit card account before  
 16   the beginning of the billing cycle referred to in subsection  
 17   (h)(1)—

18               “(1) an annual percentage rate of interest ap-  
 19               plicable after the cancellation with respect to the  
 20               outstanding balance on the account as of the date of  
 21               cancellation may not exceed any annual percentage  
 22               rate of interest applicable with respect to such bal-  
 23               ance under the terms and conditions in effect before  
 24               the date of the notice of any increase referred to in  
 25               subsection (h)(1); and

1           “(2) the repayment of the outstanding balance  
 2           after the cancellation shall be subject to all other  
 3           terms and conditions applicable with respect to such  
 4           account before the date of the notice of the increase  
 5           referred to in subsection (h).”.

6 **SEC. 113. LIMITS ON FINANCE AND INTEREST CHARGES**  
 7 **FOR ON-TIME PAYMENTS.**

8           Section 127 of the Truth in Lending Act (15 U.S.C.  
 9 1637), as amended by this Act, is amended by adding at  
 10 the end the following:

11           “(j) PROHIBITION ON PENALTIES FOR ON-TIME  
 12 PAYMENTS.—

13           “(1) PROHIBITION ON FINANCE CHARGES FOR  
 14 ON-TIME PAYMENTS.—In the case of any credit card  
 15 account under an open end credit plan, where no  
 16 other balance is owing on the account, no finance or  
 17 interest charge may be imposed with regard to any  
 18 amount of a new extension of credit that was paid  
 19 on or before the date on which it was due.

20           “(2) PROHIBITION ON CANCELLATION OR ADDI-  
 21 TIONAL FEES FOR ON-TIME PAYMENTS OR PAYMENT  
 22 IN FULL.—In the case of any credit card account  
 23 under an open end consumer credit plan, no fee or  
 24 other penalty may be imposed on the consumer in  
 25 connection with the payment in full of an existing

1        account balance, or payment of more than the min-  
 2        imum required payment of an existing account bal-  
 3        ance.”.

4    **SEC. 114. PROHIBITION ON OVER-THE-LIMIT FEES FOR**  
 5                                    **CREDITOR-APPROVED TRANSACTIONS.**

6        Section 127 of the Truth in Lending Act (15 U.S.C.  
 7    1637), as amended by this Act, is amended by adding at  
 8    the end the following:

9        “(k) LIMITATION ON IMPOSITION OF OVER-THE-  
 10    LIMIT FEES.—In the case of any credit card account  
 11    under an open end consumer credit plan, a creditor may  
 12    not impose any fees on the obligor for any extension of  
 13    credit in excess of the amount of credit authorized to be  
 14    extended with respect to such account, if the extension of  
 15    credit is made in connection with a credit transaction  
 16    which the creditor approves in advance or at the time of  
 17    the transaction.”.

18                                    **TITLE II—ENHANCED**  
 19                                    **CONSUMER DISCLOSURES**

20    **SEC. 211. DISCLOSURES RELATED TO “TEASER RATES”.**

21        Section 127(c) of the Truth in Lending Act (15  
 22    U.S.C. 1637(c)) is amended—

23                    (1) by redesignating paragraph (5) as para-  
 24                    graph (7); and

1           (2) by inserting after paragraph (4) the fol-  
 2       lowing:

3           “(5) ADDITIONAL NOTICE CONCERNING ‘TEAS-  
 4       ER RATES’.—

5           “(A) IN GENERAL.—An application or so-  
 6       licitation for a credit card for which a disclo-  
 7       sure is required under this subsection shall con-  
 8       tain the disclosures referred to in subparagraph  
 9       (B) or (C), as applicable, if the application or  
 10      solicitation offers, for an introductory period of  
 11      less than 1 year, an annual percentage rate of  
 12      interest that—

13           “(i) is less than the annual percentage  
 14      rate of interest which will apply after the  
 15      end of the introductory period; or

16           “(ii) in the case of an annual percent-  
 17      age rate which varies in accordance with  
 18      an index, is less than the current annual  
 19      percentage rate under the index which will  
 20      apply after the end of the introductory pe-  
 21      riod.

22           “(B) FIXED ANNUAL PERCENTAGE  
 23      RATE.—If the annual percentage rate which will  
 24      apply after the end of the introductory period  
 25      will be a fixed rate, the application or sollicita-

tion shall include the following disclosure: ‘The annual percentage rate of interest applicable during the introductory period is not the annual percentage rate which will apply after the end of the introductory period. The non-introductory annual percentage rate will apply after [insert applicable date] and will be [insert applicable percentage rate].’.

“(C) VARIABLE ANNUAL PERCENTAGE RATE.—If the annual percentage rate which will apply after the end of the introductory period will vary in accordance with an index, the application or solicitation shall include the following disclosure: ‘The annual percentage rate of interest applicable during the introductory period is not the annual percentage rate which will apply after the end of the introductory period. The permanent annual percentage rate will be determined by an index and will apply after [insert applicable date]. If the index which will apply after such date were applied to your account today, the annual percentage rate would be [insert applicable percentage rate].’.

“(D) CONDITIONS FOR INTRODUCTORY RATES.—If the annual percentage rate of inter-

1 est which will apply during the introductory pe-  
2 riod described in subparagraph (A) is revocable  
3 or otherwise conditioned upon any action by the  
4 obligor, including any failure by the obligor to  
5 pay the minimum payment amount or finance  
6 charge or to make any payment by the stated  
7 monthly payment due date, the application or  
8 solicitation shall include a disclosure of—

9 “(i) the conditions that the obligor  
10 must meet in order to retain the annual  
11 percentage rate of interest during the in-  
12 troductory period; and

13 “(ii) the annual percentage rate of in-  
14 terest that will apply as a result of the fail-  
15 ure of the obligor to meet such conditions.

16 “(E) FORM OF DISCLOSURES.—The disclo-  
17 sures required under this paragraph shall be  
18 made in a clear and conspicuous manner, in a  
19 format that is at least as prominent as the dis-  
20 closure of the annual percentage rate of interest  
21 which will apply during the introductory pe-  
22 riod.”.



1 **SEC. 212. PAYOFF TIMING DISCLOSURES.**

2 (a) IN GENERAL.—Section 127(b) of the Truth in  
3 Lending Act (15 U.S.C. 1637(b)) is amended by adding  
4 at the end the following:

5 “(11)(A) Repayment information that would  
6 apply to the outstanding balance of the consumer  
7 under the credit plan, including—

8 “(i) the outstanding balance in the account  
9 at the beginning of the statement period, as re-  
10 quired by paragraph (1) of this subsection;

11 “(ii) the required minimum monthly pay-  
12 ment on that balance, represented as both a  
13 dollar figure and as a percentage of that bal-  
14 ance;

15 “(iii) the due date, within which, payment  
16 must be made to avoid addition charges, as re-  
17 quired by paragraph (9) of this subsection;

18 “(iv) the number of months (rounded to  
19 the nearest month) that it would take to pay  
20 the entire amount of that balance, if the con-  
21 sumer pays only the required minimum monthly  
22 payments and if no further advances are made;

23 “(v) the total cost to the consumer, includ-  
24 ing interest and principal payments, of paying  
25 that balance in full, if the consumer pays only

1 the required minimum monthly payments and if  
 2 no further advances are made; and

3 “(vi) the monthly payments amount that  
 4 would be required for the consumer to eliminate  
 5 the outstanding balance in 36 months if no fur-  
 6 ther advances are made.

7 “(B)(i) Subject to clause (ii), in making the dis-  
 8 closures under subparagraph (A) the creditor shall  
 9 apply the interest rate in effect on the date on which  
 10 the disclosure is made until the date on which the  
 11 balance would be paid in full.

12 “(ii) If the interest rate in effect on the date on  
 13 which the disclosure is made is a temporary rate  
 14 that will change under a contractual provision apply-  
 15 ing an index or formula for subsequent interest rate  
 16 adjustment, the creditor shall apply the interest rate  
 17 in effect on the date on which the disclosure is made  
 18 for as long as that interest rate will apply under  
 19 that contractual provision, and then apply an inter-  
 20 est rate based on the index or formula in effect on  
 21 the applicable billing date.

22 “(C) FORM OF DISCLOSURE.—

23 “(i) IN GENERAL.—All of the information  
 24 described in subparagraph (A) shall—

1 “(I) be disclosed in the form and  
 2 manner which the Board shall prescribe by  
 3 regulations; and

4 “(II) be placed in a conspicuous and  
 5 prominent location on the billing statement  
 6 in typeface that is at least as large as the  
 7 largest type on the statement, but in no in-  
 8 stance less than 12-point in size.

9 “(D) TABULAR FORMAT.—

10 “(i) FORM OF TABLE TO BE PRE-  
 11 SCRIBED.—In the regulations prescribed under  
 12 subparagraph (C), the Board shall require that  
 13 the disclosure of such information shall be in  
 14 the form of a table that—

15 “(I) contains clear and concise head-  
 16 ings for each item of such information; and

17 “(II) provides a clear and concise  
 18 form stating each item of information re-  
 19 quired to be disclosed under each such  
 20 heading.

21 “(E) REQUIREMENTS REGARDING LOCATION  
 22 AND ORDER OF TABLE.—In prescribing the form of  
 23 the table under subparagraph (D), the Board shall  
 24 require that—

1           “(i) all of the information in the table, and  
 2           not just a reference to the table, be placed on  
 3           the billing statement, as required by this sub-  
 4           paragraph; and

5           “(ii) the items required to be included in  
 6           the table shall be listed in the order in which  
 7           such items are set forth in subparagraph (A).

8           “(F) BOARD DISCRETION IN PRESCRIBING  
 9           ORDER AND WORDING OF TABLE.—In prescribing  
 10          the form of the table under subparagraph (C), the  
 11          Board shall—

12           “(i) employ terminology which is different  
 13           than the terminology which is employed in sub-  
 14           paragraph (A), if such terminology is easily un-  
 15           derstood and conveys substantially the same  
 16           meaning.”.

17          (b) CIVIL LIABILITY.—Section 130(a) of the Truth  
 18          in Lending Act (15 U.S.C. 1640(a)) is amended, in the  
 19          undesignated paragraph following paragraph (4), by strik-  
 20          ing the second sentence and inserting the following: “In  
 21          connection with the disclosures referred to in subsections  
 22          (a) and (b) of section 127, a creditor shall have a liability  
 23          determined under paragraph (2) only for failing to comply  
 24          with the requirements of section 125, 127(a), or para-  
 25          graph (4), (5), (6), (7), (8), (9), (10), or (11) of section

1 127(b), or for failing to comply with disclosure require-  
 2 ments under State law for any term or item that the  
 3 Board has determined to be substantially the same in  
 4 meaning under section 111(a)(2) as any of the terms or  
 5 items referred to in section 127(a), or paragraph (4), (5),  
 6 (6), (7), (8), (9), (10), or (11) of section 127(b).

7 **SEC. 213. REQUIREMENTS RELATING TO LATE PAYMENT**  
 8 **DEADLINES AND PENALTIES.**

9 Section 127 of the Truth in Lending Act (15 U.S.C.  
 10 1637), as amended by this Act, is amended by adding at  
 11 the end the following:

12 “(l) REQUIREMENTS RELATING TO LATE PAYMENT  
 13 DEADLINES AND PENALTIES.—

14 “(1) LATE PAYMENT DEADLINE AND POSTMARK  
 15 DATE REQUIRED TO BE DISCLOSED.—In the case of  
 16 a credit card account under an open end consumer  
 17 credit plan under which a late fee or charge may be  
 18 imposed due to the failure of the obligor to make  
 19 payment on or before the due date for such pay-  
 20 ment, the periodic statement required under sub-  
 21 section (b) with respect to the account shall include,  
 22 in a conspicuous location on the billing statement—

23 “(A) the date on which the payment is due  
 24 or, if different, the date on which a late pay-  
 25 ment fee will be charged, together with the

1 amount of the fee or charge to be imposed if  
2 payment is made after that date;

3 “(B) the date by which the payment must  
4 be postmarked, if paid by mail, in order to  
5 avoid the imposition of a late payment fee with  
6 respect to the payment; and

7 “(C) a statement that no late fee may be  
8 imposed in connection with a payment made by  
9 mail which was postmarked on or before the  
10 postmark date.

11 “(2) DISCLOSURE OF INCREASE IN INTEREST  
12 RATES FOR LATE PAYMENTS.—If 1 or more late  
13 payments under an open end consumer credit plan  
14 may result in an increase in the annual percentage  
15 rate the account, the statement required under sub-  
16 section (b) with respect to the account shall include  
17 conspicuous notice of such fact, together with the  
18 applicable penalty annual percentage rate, in close  
19 proximity to the disclosure required in paragraph (1)  
20 of the date on which payment is due under the  
21 terms of the account.

22 “(3) REQUIREMENTS RELATING TO POSTMARK  
23 DATE.—

24 “(A) IN GENERAL.—The date included in  
25 a periodic statement pursuant to paragraph

1           (1)(B) with regard to the postmark on a pay-  
2           ment shall allow, in accordance with regulations  
3           prescribed by the Board under subparagraph  
4           (B), a reasonable time for the consumer to  
5           make the payment and a reasonable time for  
6           the delivery of the payment by the due date.

7           “(B) BOARD REGULATIONS.—The Board  
8           shall prescribe guidelines for determining a rea-  
9           sonable period of time for making a payment  
10          and delivery of a payment for purposes of sub-  
11          paragraph (A), after consultation with the Post-  
12          master General and representatives of consumer  
13          and trade organizations.

14          “(4) PAYMENT AT LOCAL BRANCHES.—If the  
15          creditor, in the case of a credit card account referred  
16          to in paragraph (1), is a financial institution which  
17          maintains branches or offices at which payments on  
18          any such account are accepted from the obliger in  
19          person, the date on which the obliger makes a pay-  
20          ment on the account at such branch or office shall  
21          be considered as the date on which the payment is  
22          made for purposes of determining whether a late fee  
23          or charge may be imposed due to the failure of the  
24          obligor to make payment on or before the due date  
25          for such payment, to the extent that such payment

1 is made before the close of business of the branch  
 2 or office on the business day immediately preceding  
 3 the due date for such payment.”.

## 4 **TITLE III—RESPONSIBILITIES IN** 5 **BANKRUPTCY**

### 6 **SEC. 311. AMENDMENTS TO THE BANKRUPTCY CODE.**

7 Section 523(a)(2)(C) of title 11, United States Code,  
 8 is amended by adding at the end the following: “However,  
 9 this subparagraph shall not apply for any portion of debt  
 10 incurred under an open end credit plan, as defined in sec-  
 11 tion 103 of the Truth in Lending Act, if the annual rate  
 12 of interest charged with respect to the account was more  
 13 than 20 percentage points above the Federal prime lend-  
 14 ing rate on the last day of the month during which the  
 15 interest was charged.”.

## 16 **TITLE IV—PROTECTION OF** 17 **YOUNG CONSUMERS**

### 18 **SEC. 411. EXTENSIONS OF CREDIT TO UNDERAGE CON-** 19 **SUMERS.**

20 Section 127(c) of the Truth in Lending Act (15  
 21 U.S.C. 1637(c)) is amended by inserting after paragraph  
 22 (5), as added by this Act, the following:

23 “(6) APPLICATIONS FROM UNDERAGE CON-  
 24 SUMERS.—



1           “(A) PROHIBITION ON ISSUANCE.—No  
2           credit card may be issued to, or open end credit  
3           plan established on behalf of, a consumer who  
4           has not attained the age of 21, unless the con-  
5           sumer has submitted a written application to  
6           the card issuer that meets the requirements of  
7           subparagraph (B).

8           “(B) APPLICATION REQUIREMENTS.—An  
9           application to open a credit card account by an  
10          individual who has not attained the age of 21  
11          as of the date of submission of the application  
12          shall require—

13               “(i) the signature of the parent, legal  
14               guardian, or spouse of the consumer, or  
15               any other individual having a means to  
16               repay debts incurred by the consumer in  
17               connection with the account, indicating  
18               joint liability for debts incurred by the con-  
19               sumer in connection with the account be-  
20               fore the consumer has attained the age of  
21               21;

22               “(ii) submission by the consumer of  
23               financial information indicating an inde-  
24               pendent means of repaying any obligation

arising from the proposed extension of  
credit in connection with the account; or

“(iii) proof by the consumer that the  
consumer has completed a credit coun-  
seling course of instruction by a nonprofit  
budget and credit counseling agency ap-  
proved by the Board for such purpose.

“(C) MINIMUM REQUIREMENTS FOR COUN-  
SELING AGENCIES.—To be approved by the  
Board under subparagraph (B)(iii), a credit  
counseling agency shall, at a minimum—

“(i) be a nonprofit budget and credit  
counseling agency, the majority of the  
board of directors of which—

“(I) is not employed by the agen-  
cy; and

“(II) will not directly or indi-  
rectly benefit financially from the out-  
come of a credit counseling session;

“(ii) if a fee is charged for counseling  
services, charge a reasonable fee, and pro-  
vide services without regard to ability to  
pay the fee; and

“(iii) provide trained counselors who  
receive no commissions or bonuses based

1                   on referrals, and demonstrate adequate ex-  
 2                   perience and background in providing cred-  
 3                   it counseling.”.

4 **SEC. 412. ENHANCED PENALTIES.**

5           Section 130(a)(2)(A) of the Truth in Lending Act  
 6 (15 U.S.C. 1640 (a)(2)(A)(iii)) is amended by striking “or  
 7 (iii) in the” and inserting the following:

8                   “(iii) in the case of an individual action relating  
 9           to an open end credit plan that is not secured by  
 10          real property or a dwelling, twice the amount of any  
 11          finance charge in connection with the transaction,  
 12          with a minimum of \$500 and a maximum of \$5,000  
 13          or such higher amount as may be appropriate in the  
 14          case of an established pattern or practice of such  
 15          failures; or

16                   “(iv) in the”.

17 **SEC. 413. RESTRICTIONS ON CERTAIN AFFINITY CARDS.**

18          Section 127 of the Truth in Lending Act (15 U.S.C.  
 19 1637), as amended by this Act, is amended by adding at  
 20 the end the following:

21          “(m) RESTRICTIONS ON ISSUANCE OF AFFINITY  
 22 CARDS TO STUDENTS.—No credit card account under an  
 23 open end credit plan may be established by an individual  
 24 who has not attained the age of 21 as of the date of sub-  
 25 mission of the application pursuant to any agreement re-

1   lating to affinity cards, as defined by the Board, between  
2   the creditor and an institution of higher education, as de-  
3   fined in section 101(a) of the Higher Education Act of  
4   1965 (20 U.S.C. 1001(a)), unless the requirements of sec-  
5   tion 127(c)(6) are met with respect to the obliger.”.

○